

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

ALEX DUONG, SP 2014-PR-205 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction to minimum yard requirements based on error in building location to permit addition to remain 8.2 ft. from side lot line. Located at 9201 Briary Ln., Fairfax, 22031, on approx. 14,023 sq. ft. of land zoned R-3. Providence District. Tax Map 58-4 ((33)) 40. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 7, 2015; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. A building permit was issued. There appears to be some mistake in the process, and the actual error was not found until there was a wall check done.
3. The property fronts on Briary, has a very large side yard that really is probably a front yard that fronts on Prince William, and then it backs up to Little River Turnpike, which the elevation is higher than the actual yard in question.
4. It has no impact on adjoining property owners.
5. The house is located at an angle on the lot, and because of the angle on the lot, it resulted in the violation.
6. The Board has determined the applicant has satisfied Subsections A through H under Sect. 8-914. In particular, the noncompliance was done in good faith or no fault of the property owners or was the result in the error in the relocation of the building subsequent to the issue of a building permit.
7. It will not impair the purpose or intent of the Ordinance.
8. It will not be detrimental to the use or enjoyment of any adjoining property and satisfies the other requirements.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. The error exceeds ten (10) percent of the measurement involved, or

- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

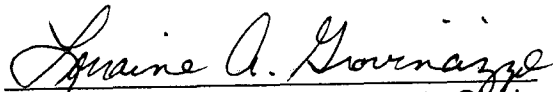
1. This special permit is approved for the location of the enclosed carport, as shown on the plat prepared titled, "Plat, Showing House Location on, Lot 40, Section 2, Briars at Westchester," prepared by Thomas g. Lutke, L.S, of NoVA Surveys, dated August 28, 2014.

2. All applicable permits and final inspections shall be obtained for the addition within 180 days of the approval of this application.
3. The accessory storage structure (shed) located in the rear yard shall be removed or otherwise relocated to comply with the applicable Zoning Ordinance provisions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Hart seconded the motion, which carried by a vote of 5-0. Mr. Byers was not present for the vote. Mr. Smith was absent from the meeting.

A Copy Teste:



Lorraine A. Giovinazzo, Deputy Clerk
Board of Zoning Appeals